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COUNTY ADMINISTRATOR

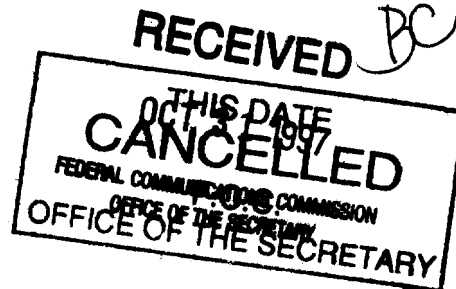
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**FCC MAIL ROOM**

October 22, 1997

Office of the Secretary  
Federal Communications Commission  
Washington, D. C. 20554



**Subject:** Response to the FCC notice of proposed rule making in the matter of preemption of State and Local zoning and land use restrictions on the siting, placement and construction of broadcast station transmission facilities (FCC 97-296/MM Docket No. 97-182)

Upon reviewing the notice of proposed rule making referenced above, the Chesterfield County Planning Department opposes the preemption of local zoning and land use authority on the siting, placement and construction of broadcast station transmission towers and associated tower-mounted or ground-mounted equipment. The only exceptions could be the proposed preemptions of local regulation of RF emissions and frequency interference. In these two (2) matters, the County has traditionally deferred to regulations promulgated by the FCC.

The exercise of local zoning authority in Chesterfield County, over communications towers and associated equipment, has benefitted both the public and the communications industry. Since 1990, our locality has reviewed at least thirty-seven (37) zoning applications for radio, television, and cellular/PCS communications tower locations. Through the zoning process, concerns about the compatibility of these towers with existing and anticipated area development were raised and, for at least thirty-one (31) tower applications, these concerns were adequately addressed and the towers approved. In five (5) instances, the applications for cellular/PCS towers were withdrawn because of opposition. In all five (5) instances, alternate sites were found and ultimately approved. In only one (1) instance was a tower application, for a cellular communications tower site, denied by Chesterfield County.

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Our jurisdiction works closely with the communications industry to find tower sites and process zoning applications in an expeditious manner. However, shortening the process, to as little as twenty-one (21) days as proposed, would greatly hamper our ability to assist the industry and serve the public. The normal zoning time-line is designed to give the applicant, staff, citizens, the Planning Commission and the Board of Supervisors sufficient time to review a zoning proposal. Any deviation from the normal process would entail certain risks to the applicant and additional costs to the County. In particular, 'rushing' cases through the zoning process could result in: mistakes in advertising, posting, and notification; insufficient time for staff, the Commission and the Board to analyze the request and anticipate, identify and address potential concerns and problems; massive opposition to the request at the public hearing level, including charges from citizens that the tower proposal is being 'rammed down our throats'; significant additional costs to the County in overtime, advertising, interruption of normal work flow, and duplication of effort in handling tower applications as special cases; more frequent denials of tower requests; and the possible need to amend our laws and ordinances relative to notification and advertising. In addition, allowing a tower applicant to appeal the denial of a tower zoning application to the FCC, or allowing an applicant to take the denial to arbitration, would give the FCC authority to overturn a local zoning decision. Under these circumstances, the County would have to go through the time, effort and expense of defending our decision before the FCC, as opposed to defending our decision at the local level through the courts, in the normal manner or such cases.

Currently Chesterfield County, through the zoning process, addresses the lighting, color and appearance of a tower and tower-mounted equipment, as well as other aesthetic concerns such as screening ground mounted equipment, architectural treatment of buildings, buffers, landscaping, signage, tower design, and tower removal when the structure is no longer used for communications purposes. The County has also adopted guidelines for the siting of proposed towers. These guidelines address concerns raised by our citizens about locating towers near residential neighborhoods and high visibility areas, such as along our rivers. The adopted policies recognize the need for communications towers and, far from excluding towers from any area in the County, are designed to accommodate them while mitigating their visual impacts. The proposed preemption would remove consideration of these concerns from the approval or denial of tower zoning requests.

Adoption by the FCC of the proposed rule making referenced herein would strip Chesterfield County of virtually all zoning authority to regulate towers as a discrete land use. Clearly, this preemption would not serve the best interests of the citizens of this County who, while having an interest in affordable, state-of-the-art communications technology, also have a strong, vested interest in the economic and aesthetic impacts that communications towers may have on their homes and neighborhoods.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas E. Jacobson', written in a cursive style.

Thomas E. Jacobson, AICP  
Director of Planning